



# Tax Practitioner News

Fall 1999, Volume 111

## Message from the Deputy Chief Financial Officer Office of Tax and Revenue to Host a Tax Practitioner's Institute in January 2000

Dear Tax Practitioner:

Mark your calendar for Jan. 12 and 13, 2000, and plan to attend the District of Columbia's Office of Tax and Revenue Tax Practitioner's Institute at 941 North Capitol Street, NE, Washington, D.C., in our auditorium-style fourth floor meeting room, from 8:30 a.m. to 4:00 p.m. We are exploring the potential for this institute to qualify for Continuing Education Credits. We have space for 400 people. To sign up, contact **Dianne Williams** by Dec. 22, 1999, at 202-442-6315, via fax at 202-442-6330, or via e-mail at [DianneW@otrtax.dcgov.org](mailto:DianneW@otrtax.dcgov.org).

The purpose of this program is to facilitate better communication between our agency and the tax practitioner community. Over the past three years, the District of Columbia Office of Tax and Revenue has made great strides to improve all aspects of its operations, from opening a state-of-the-art Customer Service Center, to issuing refunds on average within 15 days during the 1999 tax filing season. While we have come a long way, the agency recognizes there is still room for improvement.

I would like to hear your suggestions regarding opportunities to improve our services to District taxpayers as well as increase our mutual understanding of District taxation issues. I am encouraging you to ask questions in advance of the session so that my staff can better tailor our presentations to suit your needs. Topics of interest could include, but are not limited to, expanded electronic commerce, telefile, the impact of the Tax Parity Act, recent legal interpretations of D.C. tax regulations, tax and economic policy issues, compliance, customer service, returns processing, and criminal and civil enforcement. I invite you to send recommended topics. Once we have received responses and finalized an agenda, we will send follow-up correspondence.

I look forward to seeing you at this event. If you have any questions, please contact Ms. Williams at the number above.

Sincerely,

Natwar M. Gandhi  
Deputy Chief Financial Officer  
For Tax and Revenue

## Tax Parity Act of 1999 Becomes Law

The Tax Parity Act of 1999 is a five-year tax reduction and simplification plan, which will affect most individuals and businesses in the District of Columbia. The Act was enacted by the District of Columbia Council and has been approved by the Congress of the United States. Some of the changes will take effect quickly and others will be phased-in over the five-year period. The changes, which will affect businesses in the District of Columbia, include the following:

see **Tax Parity Act** page 2

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## Corporate Franchise Tax

**Effective for net operating losses (corporate only) incurred after Dec. 31, 1999**, the following will apply:

- No carry-back will be allowed.

The carry-forward provisions will remain the same as current law.

- Net operating losses will be computed based on District of Columbia losses, rather than the current consolidated method of calculation.

**Effective for fiscal years beginning on or after Jan. 1, 2003**, the franchise tax rate for corporate and unincorporated businesses will be reduced to 9%.

**Effective for fiscal years beginning on or after Jan. 1, 2004**, the franchise tax rate for corporate and unincorporated businesses will be reduced to 8.5%.

## Personal Property Tax

Effective for personal property taxes payable July 31, 2000, there will be an exclusion of \$50,000 taxable value. Effective for personal property taxes payable July 31, 2000, accelerated depreciation schedules will be in effect for certain computer and related equipment. The personal property tax instructions will provide specific details.

## Real Property Tax

Class 2 (multifamily residential) tax rates will be reduced from the current \$1.54 per \$100 of assessed value to \$1.34 in FY 2000, to \$1.15 in FY 2001 and to \$0.96 in FY 2002.

Class 4 (commercial) and Class 5 (vacant) will be reduced from current rates (\$2.15 and \$5.00 per \$100 of assessed value, respectively) to \$2.05 in FY 2000, to \$1.95 in FY 2001 and to \$1.85 in FY 2002.

## Sales and Use Tax

Effective Oct. 1, 1999, sales taxes on Internet access, which are currently under a federal moratorium, were permanently eliminated in the District of Columbia.

## Arena Fee

The arena fee will be eliminated for taxpayers with District of Columbia gross receipts less than \$2 million, effective for the June 15, 2000 payment. The remaining rates will be adjusted as shown.

## Individual Income Tax

Rates and Brackets will be reduced according to the following schedule:

- \$0-\$10,000 lowest bracket will remain the same, but rates will be reduced from current 6% to 5% in calendar year 2000 to 4.5% in calendar year 2003 and to 4% in calendar year 2004.
- \$10-\$20,000 middle bracket will be adjusted. \$10-\$20,000 bracket rate will fall from 8% to 7.5% in calendar year 2000. Middle bracket will change to \$10-\$30,000 in calendar year 2001 with 7.5% rate. \$10,000-\$30,000 bracket rate will fall from 7.5% to 7% in calendar year 2002. Middle bracket will expand to \$10-\$40,000 in calendar year 2003, while rate remains at 7%. For calendar year 2004, middle bracket expands to \$10-\$40,000 and rate falls from 7% to 6%.
- Top bracket changes to \$30,000 and greater with rate reduction from 9.5% to 9.3% rate in calendar year 2001. Top bracket rate drops from 9.3% to 9% in calendar year 2002. Top bracket rate increases to \$40,000 and greater with rate reduction from 9% to 8.7% in calendar year 2003. Top rate for top bracket drops to 8.5% in calendar year 2004.

### Arena Fee Schedule

<u>D.C. Receipts</u>	<u>Pre-2000 Arena Fee</u>	<u>June 15, 2000 Arena Fee</u>
\$0-200,000	\$25	\$0
\$200,000-500,000	\$50	\$0
\$500,000-1 million	\$100	\$0
\$1-2 million	\$825	\$0
\$2-3 million	\$825	\$1,000
\$3-10 million	\$2,500	\$3,300
\$10-15 million	\$5,000	\$6,500
\$15 million and over	\$8,400	\$11,000

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## Department of Consumer and Regulatory Affairs and the Office of Tax and Revenue Team Up to Enforce Clean Hands Act

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In October, the Department of Consumer and Regulatory Affairs and the District of Columbia Office of Tax and Revenue began taking action against businesses that are delinquent in paying city taxes. So far, the agencies have notified 18 businesses of tax law violations representing almost \$700,000 in local tax debt.

According to a law passed in 1996 known as the Clean Hands Act, all applicants for a business license or

permit must sign a self-certification letter stating they do not owe the

District government more than \$100 in taxes,

fines, or other debts. Businesses in

violation of the act

face penalties of

\$1,000 for false

certification and risk

having their licenses or

permits revoked.

"This law levels the

playing field for honest,

taxpaying business owners who are

the ones hurt when others do not play

by the rules," said DCRA Director

**Lloyd J. Jordan** and Deputy Chief

**'Our mutual goal is to have all businesses comply with the District's tax laws and continue to contribute to the economic vitality of the city.'**

**Natwar M. Gandhi**  
**Deputy Chief**  
**Financial Officer for**  
**Tax and Revenue**

Financial Officer for Tax and Revenue **Natwar M. Gandhi** in a joint statement. "Our mutual goal is to have all businesses comply with the District's tax laws and continue to contribute to the economic vitality of the city."

Jordan and Gandhi emphasized that the Clean Hands Act enforcement is an ongoing program and that more notices to tax-delinquent businesses will be issued in the coming months.

Businesses have 15 days to pay taxes, fines, and fees upon receipt of Clean Hands Act delinquency notices. As a result of this outreach, the District has collected approximately \$190,000.

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## The Tax Clarity Act of 1999

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The Office of Tax and Revenue has completed the drafting of the Tax Clarity Act of 1999, a major clean up and reorganization of the District's tax code. The Act was put together by the attorneys in OTR's chief counsel's office, headed by **Stephen P.B. Kranz**, and currently includes 144 pages of legislation aimed at eliminating perceived inequities and disorganization in the tax code. The goal behind the Act is to provide a simplified, equitable tax code utilizing best practices found in other jurisdictions, including the federal government. The Act repeals over 100 sections from the present tax code replacing them with 55 new sections organized by subject in four new chapters.

Examples of the changes to the code proposed in the Tax Clarity Act of 1999 include revising the penalty and interest structure; consolidating all

collection provisions; creating one statute of limitations for assessment and collection of all taxes; repealing

**'The goal behind the Act is to provide a simplified, equitable tax code utilizing best practices found in other jurisdictions, including the federal government. The Act repeals over 100 sections from the present tax code replacing them with 55 new sections organized by subject in four new chapters.'**

the substantial benefits test for exempt organizations; streamlining the tax sale process; solving the problem with sales tax on snack food by using the

federal food stamp eligibility definition to determine which foods are nontaxable and providing taxpayers with automatic interest on their refunds. The Act also proposes to permit corporations to file consolidated franchise tax returns and extend the real property tax to commercial interests in governmentally owned exempt property.

The Act has been forwarded to the Chief Financial Officer for consideration and transmittal through the Mayor to the City Council. OTR anticipates that the Act will be introduced soon.

If you have any questions, please contact the Office of Tax and Revenue at (202) 442-6500.

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## D.C.'s Capitol Advantages

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On April 28, an ad hoc Committee on Associations and Nonprofit Organizations was created when the office of Mayor **Anthony A. Williams** appointed **Betty Ann Kane**, former D.C. council member, as chairwoman to enhance, increase, and retain association presence in the District. Members of the committee also include the D.C. Chamber of Commerce and various non-profit association leaders. The Office of Tax and Revenue's (OTR) representatives, **Greg Barcase** and **Wayne Nickum**, serve as members of the committee to provide exempt organization tax advisory assistance.

As a result of this committee's work, a brochure entitled "D.C.'s Capitol Advantages," was produced to inform potential nonprofit/tax exempt organizations on the advantages of relocating or establishing an office in the District of Columbia.

The committee was also instrumental in the development of an interactive Web site ([www.dcassociation.org](http://www.dcassociation.org)), which provides current information on financial incentives, including tax savings, office space, work force, and quality of life benefits of the District of Columbia. Key industry and government contacts can also be found on the site.

OTR source of information can be found on the site under D.C.'s Financial Advantages. Highlights from this site include the following:

- The District of Columbia is an ideal location for non-profit organizations.
- The Office of Tax and Revenue has earned the reputation of being one of the most customer-friendly agencies in the District.

- The recent creation of the District of Columbia enterprise zones has assisted non-profit businesses in relocation and expansion through exempt bond financing and federal tax incentives.

- Details on tax savings, including (franchise, personal property, sales and use, real property taxes, and unemployment insurance) qualifying for tax-exempt status, an update on the Tax Parity Act of 1999, as well as revenue bond financing.

- OTR will continue to provide updates for the Web site and promote the District's efforts to inform the non-profit/tax-exempt community of D.C.'s capitol advantages.

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**Check out the Web site @  
[www.dcassociation.org](http://www.dcassociation.org)**

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## Request for District Taxpayer Information

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The Office of Tax and Revenue (OTR) receives many requests for the release of District of Columbia taxpayer information. These requests usually take the form of subpoenas, Freedom of Information Act requests (FOIAs), or requests from taxpayers for their own tax information. To determine the adequacy of these requests and the appropriate response, **William Bowie** and **Jeff Jordan** of the Office of Tax Counsel, have been designated the disclosure attorneys responsible for

handling these requests on behalf of OTR. As disclosure attorneys, Bowie and Jordan ensure that all time sensitive requests, such as FOIAs and subpoenas, are responded to in the period prescribed by law and include the appropriate content.

All such requests for District taxpayer information should be mailed to Bowie or Jordan at 941 North Capitol Street, NE, Suite 810, Washington, D.C. 20001, or fax to (202) 442-6479.

Once a request is faxed, a hard copy of the request must be mailed as well. If the request is made by a taxpayer represented by counsel, the request should be accompanied by a signed Power of Attorney (an OTR Power of Attorney form can be requested).

Any questions or concerns regarding the disclosure of District taxpayer information can be addressed to Bowie or Jordan by contacting them at (202) 442-6500.

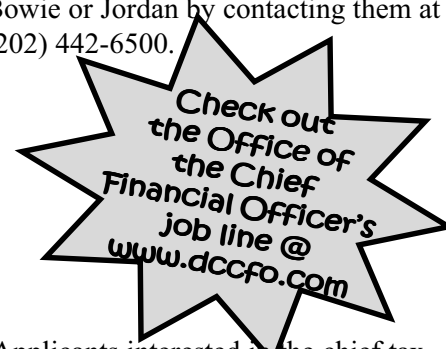
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## OTR Seeks Chief Tax Counsel

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The Office of Tax and Revenue (OTR) is looking for a new chief tax counsel. **Stephen P.B. Kranz** announced that as of Nov. 1, he is leaving the position of chief tax counsel, OTR, to become tax counsel for the Committee on State Taxation (COST). Kranz has

been OTR's chief tax counsel since July 1998. **Greg Matson** will be acting chief tax counsel for OTR until a permanent replacement is chosen. Matson may be reached at (202) 442-6500.



Applicants interested in the chief tax counsel position should contact **Jewel Jackson**, recruiter, Mission Support, at (202) 727-0380.

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## Five Men Sentenced to Tax Fraud

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Over the past year, the Office of Tax and Revenue has stepped-up its compliance efforts. Specifically, the agency's new focus on criminal investigation has led to some convictions. Below are summaries of cases in which the Office of Tax and Revenue has worked with Corporation Counsel and the U.S. Attorney's Office.

### **Sentencing of Damon S. Hawkins on Sept. 17, 1999**

**Damon S. Hawkins** pleaded guilty to multiple criminal tax offenses and was sentenced by Judge Cheryl Long to ten counts of willful tax fraud (three counts of filing false tax returns and

two counts of attempting to defeat and evade taxes by means of unlawful refund checks on his own behalf, plus five counts of aiding and abetting others to file false tax returns and to attempt to defeat and evade taxes by means of unlawful

refund checks). Judge Long suspended imposition of a jail term. Hawkins was placed on supervised probation for the maximum permissible period of five years and required to pay restitution for the Office of Tax and Revenue. [Convicted for activities in tax years 1996 and 1997.]

### **Sentencing of Mark A. Thompson on Sept. 14, 1999.**

**Mark A. Thompson** pleaded guilty to two tax charges in D.C. Superior Court, admitting to two misdemeanor charges that he did not file tax returns or pay required city taxes in 1995.

### **Sentencing of Antwaun Hawkins and Johnnie R. Peterson, III, on Sept. 13, 1999**

**Antwaun L. Hawkins** pleaded guilty to three counts of tax fraud and was sentenced to the maximum term of one year in jail on each of the three counts to run consecutively. The Superior Court, however, suspended the sentence and placed Hawkins on probation for five years on the condi-

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tion he provide restitution to the Office of Tax and Revenue. [Convicted for activities in tax years 1996 through 1998.]

**Johnnie R. Peterson, III,** pleaded guilty to five counts of non-willful tax fraud and

was sentenced to the maximum term of six months in jail on each of the five counts to run consecutively. The Superior Court, however, suspended the sentence and placed Peterson on probation for three years on the condition he provide restitution to the Office of Tax and Revenue. [Convicted for activities in tax years 1996 through 1998.]

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## Lee R. Monks Becomes Director of Compliance

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The D.C. Office of Tax and Revenue (OTR) announced in August that **Lee R. Monks**, the former National Taxpayer Advocate for the Internal Revenue Service (IRS), officially became Director of OTR's Compliance Operations Administration, effective Aug. 30.

Monks, who retired in August from the IRS after 36 years of government service, had been on loan to the Office of Tax and Revenue for approximately 11 months as Director of Compliance Operations Administration. During that time, Deputy Chief Financial Officer for Tax and Revenue Dr. **Natwar M. Gandhi** said that Monks' significant management experience has greatly contributed to the success of the Office of Tax and Revenue's compliance programs. Specifically, collection and audit results have shown dramatic improvements and, under Monks' leadership, program changes to the criminal investigation program have lead to several recent tax fraud and evasion convictions.

Monks has also been directly involved in several new initiatives to make filing and payment of taxes easier for District taxpayers – such as the credit card program, where District taxpayers who are late in filing individual income taxes can use a credit card to satisfy tax bills, and a telefile program expected to be ready for the 2000 filing season.

Prior to Monks' selection as the National Taxpayer Advocate for IRS, Monks served as district director of the Arkansas district for IRS from 1989 to 1993.

### **How to Order Tax Forms**

If you are interested in ordering any of our tax forms, you may contact the Office of Tax and Revenue's Form Center at **202-442-6546** or you may download the forms off of the Internet at **www.dccfo.com** under "Taxpayers." The forms on the Internet will be available at the end of December.

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## District of Columbia's Voluntary Disclosure Program

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As part of the city's continuing efforts to improve tax administration and collections, the District invites taxpayers that are not in full compliance with our tax laws to come forward through our Voluntary Disclosure Program in order to bring themselves into full tax compliance.

On the advice of accounting firms and law firms, many corporations, partnerships, and individuals come forward once they are advised by these firms that they might have a possible nexus issue with the District, for which they have not registered for or paid taxes to the District.

This is sound advice indeed. D.C. strongly encourages businesses and individuals to become fully compliant rather than risk large tax bills, with penalties of up to 45% and interest accumulated at 18% per year.

Generally, OTR will agree to limit the look-back period to three years. In

extreme situations, a five-year look-back period may be required. OTR will waive penalties if the full amount of tax and interest is paid.

Nonprofit organizations are also eligible for this program. The voluntary disclosure program covers prior unreported tax on unrelated business income (UBIT). The unrelated business income reported to D.C. should be the same as that reported or required to be reported to the Internal Revenue Service. For D.C., Form D-20 for corporations and for all others, Form D-30 must be filed. This voluntary disclosure process also covers nonprofit organizations that have not reported prior year sales taxes that should have been collected on sales of tangible personal property made by the organization.

The District encourages these types of voluntary agreements since they benefit both D.C. and the taxpayer.

Offers may be submitted anonymously or under the taxpayer's identity. Any taxpayer can apply unless the tax liability is under the authority of the Real Property Tax Administration.

For information and a copy of our voluntary disclosure package, please contact the following personnel in OTR's Audit Division: **Greg Barcase**, acting supervisory tax auditor, by telephone (202) 442-6579 or facsimile (202) 442-6882; **Thomas Kerwin**, assistant audit manager, by telephone (202) 442-6578 or facsimile (202) 442-6883; or **Yassie Hodges**, audit manager, by telephone (202) 442-6621 or facsimile (202) 442-6883. You can also request information by mail from Office of Tax and Revenue, Compliance Operations Administrative Audit Division 941 Capitol Street, N.E., 5th floor, Washington, DC 20002.

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## Resolving State Tax Liabilities: Multistate Voluntary Disclosure

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Many businesses believe that states can assert their taxing jurisdiction over companies only when they open a store or office in a state. This is not true. In the area of use tax collection a business can avoid nexus with a state, if it stays within the "safe harbor for vendors 'whose only connections with customers in the [taxing] State is by common carrier or the United States mail.'" *Quill Corp. v. North Dakota*, 504 U.S. 298, 315 (1992). However, many businesses do more than ship their products by common carrier, creating state tax liabilities for themselves through their use of in-state permanent or temporary employees, traveling salesmen, independent contractors (full-time or part-time), inventory, leased property, or other

property. If your client is found to have sales or use tax collection duty, many states will hold you client primarily liable for the sales or use tax.

Income and franchise tax nexus standards also surprise the unwary business. In the income tax area a business can be required to file a state income tax return if its employees or representatives do anything beyond the solicitation of sales. For example, if a business provides any services, sells intangibles, or owns property in the state, it might be required to file an income tax return in that state. See *Interstate Commerce Tax Act* 15 U.S.C. 381-384 (1959), Public Law 886-272. Moreover, if your client has

never filed a tax return in a state, that state might be able to assess taxes indefinitely to the date nexus was first established with the state (e.g., 30 years), not the normal three years back that most states use when dealing with taxpayers that are registered and filing in the state.

The Multistate Tax Commission's (MTC) National Nexus Program offers a solution. The National Nexus Program operates an innovative voluntary disclosure program that allows companies to resolve potential tax liabilities simultaneously with multiple states. Through this program companies may approach a large number of states anonymously to propose settlement of potential state

sales/use tax or income/franchise tax liabilities arising from past activities within those states. Taxpayers benefit by resolving potential state tax disputes before the state issues prior-year assessments of taxes, interest, and penalties. Tax professionals benefit by being allowed to focus on substantive tax issues rather than trying to determine who in the state to contact, what kind of disclosure program is available in the state, what terms are available in the state, and other procedural problems. Multistate resolution saves time and money as MTC staff performs most of the work - at no cost to the taxpayer.

### The Disclosure Process

A company representative initiates the process by contacting the Nexus Program anonymously, by letter, and requesting a voluntary disclosure. The Nexus Program staff will need the following information:

- a brief description of the company's business, including the number of years the company has been in business;
- the nature and extent of the company's operations in the relevant states, including whether the company owns or leases property, engages employees, or has other potential nexus-creating activities in those states;
- a statement as to whether the company has been contacted by any of the states, and if so, the nature of the contacts;
- the terms proposed by the company; and
- a schedule showing the estimated amount of taxes due, by tax type and year, for each state the company wants contacted.

All voluntary disclosure negotiations are handled on a confidential and anonymous basis. Company representatives are asked not to reveal the name of the company or any information.

Once Nexus Program staff has evaluated the facts and circumstances of the

company's contacts in the states with which it is seeking a voluntary disclosure, the staff will advise the company's representative of terms generally acceptable if the facts warrant such treatment (e.g., "gray" nexus areas). Nexus staff will work with the representative to formulate an offer that will be acceptable to the states - a majority of Nexus Program staff will forward a voluntary disclosure agreement (i.e., contract) to the states specified by the company representative. Disclosure agreements recommended to states by Nexus Programs staff are accepted in most cases. The entire voluntary disclosure process typically takes one hundred and twenty days but can take longer for more complicated cases.

### Voluntary Disclosure Policies

The National Nexus Program and its member states adhere to the following policies for all voluntary disclosures:

- A company that volunteers to disclose its liabilities will remain anonymous throughout the negotiation and disclosure process until the final stage when registration forms and signed agreements are sent to the states through the Nexus Program office.
- Nexus Program member states and the Multistate Tax Commission have adopted a strict policy that they will not reveal the identity of the taxpayer to any state that does not accept the disclosure offer.

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not reveal the identity of the taxpayer to any state that does not accept the disclosure offer.

- Nexus Program will not process offers to nonmember states.
- The Nexus Program will not process a disclosure offer for a state that has previously contacted the company (something beyond a routine mass mailed letter) or has selected the company for audit, other investigation, or review. Contact by one member state will preclude disclosure from occurring with other member states.
- If a company has already sent written notice to the Nexus Program staff of its intent to offer a voluntary disclosure to a member state and the member state contacts the company at a later date to conduct an audit of the company, Nexus Program staff will request the member state to temporarily stop the audit until the voluntary disclosure negotiations are complete.

The Nexus Program makes available to the public, upon request, the sales and use tax registration forms for all 46 states sales tax jurisdictions.

If you have any questions about the voluntary disclosure program or would like to initiate a disclosure, contact Mr. H. Beau Baez or Mr. Thomas K. E. Shimkin at the Multistate Tax Commission, 444 North Capitol, NW, Suite 425, Washington, DC 20001, (202) 508-3800. Also you may contact the Nexus Program by e-mailing information to [nexus@mtc.gov](mailto:nexus@mtc.gov).

*This article was written by Beau Baez III, Counsel for the MTC National Nexus Program.*

### Nexus Program Member States

Voluntary disclosures processed only for Nexus Program Member States. The following 39 States are members of the MTC National Nexus Program as of May 1999.

Alabama	Idaho	Missouri	Oregon
Alaska	Iowa	Montana	Rhode Island
Arizona	Kansas	Nebraska	South Carolina
Arkansas	Kentucky	New Hampshire	South Dakota
California	Louisiana	New Jersey	Texas
Colorado	Maine	New Mexico	Utah
Connecticut	Maryland	North Carolina	Washington
District of Columbia	Massachusetts	North Dakota	West Virginia
Florida	Michigan	Ohio	Wisconsin
Hawaii	Minnesota	Oklahoma	

## **Be on the *Tax Practitioner News* Mailing List**

If you know of anyone who would like to be added or deleted from the *Tax Practitioner News* mailing list, please contact

Clarice Nassif Ransom,  
director of communications, at  
202-442-6483

**Don't forget to sign  
up for the Tax  
Practitioner's  
Institute on Jan. 12th  
and 13th, 2000.  
See Message on  
Cover for details**

To register, contact:  
Dianne Williams  
by Dec. 22, 1999, at  
202-442-6315, via fax at  
202-442-6330, or via e-mail at  
[DianneW@otrtax.dcgov.org](mailto:DianneW@otrtax.dcgov.org).

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